

Responding to sexual assault and child sexual abuse

Queensland Government Interagency Guidelines
for responding to children, young people and adults who
have experienced sexual assault or child sexual abuse



Queensland
Government

The Queensland Government Interagency Guidelines for responding to children, young people and adults who have experienced sexual assault or child sexual abuse (the guidelines) have been reviewed through a strong collaborative approach by the Queensland Government, including representatives from:

- Department of Justice and Attorney-General (DJAG)
 - Women's Safety and Violence Prevention
 - Office of the Director of Public Prosecutions
 - Victim Assist Queensland
- Department of Youth Justice (DYJ)
- Department of Child Safety, Seniors and Disability Services (DCSSDS)
- Queensland Health (QH)
 - Forensic Medicine Queensland, Clinical Excellence Queensland
 - Forensic Science Queensland (*note: moving to DJAG in 2024*)
 - Child Protection and Forensic Medicine Services, Children's Health Queensland Hospital and Health Service
 - System Policy Branch, Strategy, Policy and Reform Division
- Queensland Police Service (QPS)

The guidelines outline key principles and a best practice framework for government agencies working with children, young people and adults who have experienced sexual assault and/or child sexual abuse, noting that people may have experienced both forms of violence on the same or separate occasions.

The government agencies primarily responsible for the development of this document (DJAG, QPS, QH, DYJ and DCSSDS) have committed to the principles, roles, approaches and procedures articulated in the guidelines. This commitment aims to ensure that individuals who have experienced sexual assault and/or child sexual abuse are provided with timely, sensitive, trauma-informed, victim-centric, high quality and coordinated service delivery responses appropriate to their needs, and appropriate to the role played by these agencies.

Key service providers are encouraged to use the guidelines to support local level liaison and coordination between government agencies as well as with non-government sexual assault support service providers.

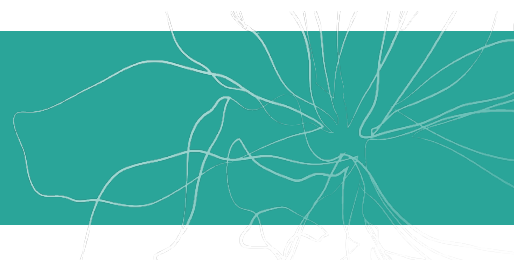
The following government agencies responsible for the development of the guidelines would like to thank the government and non-government stakeholders who kindly contributed their knowledge and expertise during the development of the guidelines:

- Queensland Health
- Department of Justice and Attorney-General
- Queensland Police Service
- Department of Youth Justice
- Department of Child Safety, Seniors and Disability Services

December 2023

Acronyms and abbreviations

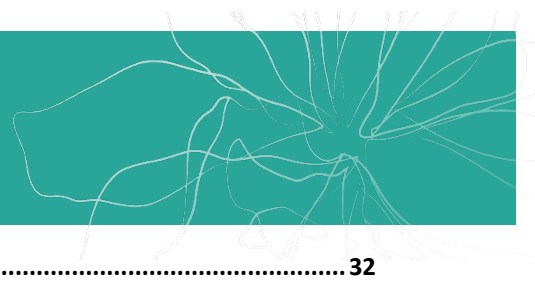
CPA	<i>Child Protection Act 1999</i>
DCSSDS	Department of Child Safety, Seniors and Disability Services
DJAG	Department of Justice and Attorney-General
DFVPA	<i>Domestic and Family Violence Protection Act 2012</i>
DYJ	Department of Youth Justice
EA	<i>Evidence Act 1977</i>
FME	Forensic Medical Examination
FMEK	Forensic Medical Examination Kit
FP	Forensic Physician
FNE	Forensic Nurse Examiner
Framework	<i>Prevent. Support. Believe. Queensland's Framework to address Sexual Violence</i>
HHS	Hospital and Health Service
ODPP	Office of the Director of Public Prosecutions
OPG	Office of the Public Guardian
QH	Queensland Health
QPS	Queensland Police Service
SANE	Sexual Assault Nurse Examiner
VAQ	Victim Assist Queensland
WSVP	Women's Safety and Violence Prevention



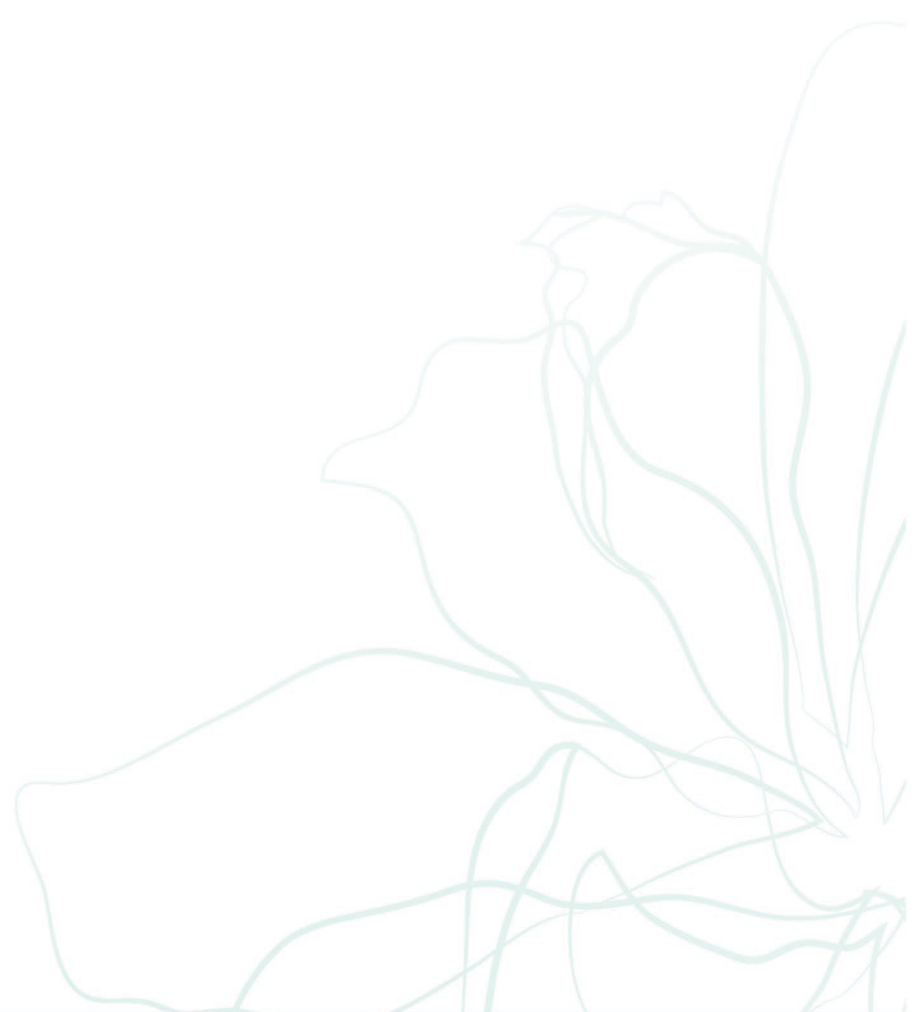
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Preface

The guidelines are designed to promote whole-of-government interagency cooperation and service coordination with the aim of improving government agency responses to victim-survivors of sexual assault or child sexual abuse. The guidelines were first developed in 2001, to highlight the importance of coordinated responses to people who have experienced sexual assault or abuse. The 2014 guidelines incorporated responses to both child and adult victim-survivors. These guidelines aimed to facilitate best practice, quality service and support to people who have experienced sexual assault or child sexual abuse.¹

The guidelines have been updated to reflect current Queensland Government legislation, policy and practices related to responding to victim-survivors of sexual offences, including children and young victim-survivors of sexual abuse.

From this point forward, the guidelines will be regularly reviewed to ensure policy approaches and legislative changes driven by significant reviews, such as those implemented in response to the recommendations of the Women's Safety and Justice Taskforce, and the Commission of Inquiry into Forensic DNA Testing in Queensland, are incorporated in a timely manner. This will occur in consultation with the specialist sexual assault sector.

Legislation relevant to and defining sexual assault or child sexual abuse includes, but is not limited to:

- [Human Rights Act 2019](#)
- [Mental Health Act 2016](#)
- [Public Guardian Act 2014](#)
- [Aboriginal and Torres Strait Islander Peoples Recognition \(Sunset Extension\) Act 2015](#)
- [Domestic and Family Violence Protection Act 2012](#)
- [Hospital and Health Boards Act 2011](#)
- [Victims of Crime Assistance Act 2009](#)
- [Public Health Act 2005](#)
- [Police Powers and Responsibilities Act 2000](#)
- [Guardianship and Administration Act 2000](#)
- [Child Protection Act 1999](#)
- [Criminal Law \(Sexual Offences\) Act 1978](#)
- [Evidence Act 1977](#)
- [Health Act 1937](#) & associated regulations
- [Criminal Code Act 1899 \(Criminal Code\)](#)
- [Youth Justice Act 1992](#)

Relevant policies and guidance documents include, but are not limited to:

- [Prevent. Support. Believe. Queensland's Framework to address Sexual Violence](#)
- [Queensland Government response to *Hear her voice – Report Two – Women and girls' experiences across the criminal justice system*](#)
- [Final Report of the Commission of Inquiry into Forensic DNA Testing in Queensland](#)
- [Final Report of the Commission of Inquiry to examine DNA Project 13 concerns](#)
- [The Queensland Charter of Victim's Rights](#)
- [Working Together Changing the story: Youth Justice Strategy 2019–2023](#)

¹ See [Appendix 2](#).

- [Queensland Government Domestic and Family Violence Prevention Strategy 2016-2026](#)
- [Queensland Government Response to the Royal Commission into Institutional Responses to Child Sexual Abuse](#)
- [Queensland Government Response to the Youth Sexual Violence and Abuse Steering Committee's Final Report](#)
- [Domestic and Family Violence: Information Sharing Guidelines](#)
- [Information Sharing Guidelines: To meet the protection and care needs and promote the wellbeing of children](#)
- [Queensland Language Services Policy](#)
- [Queensland Multicultural Action Plan](#)

The policies and guidance documents should be read in conjunction with internal agency procedures such as the:

- [Health Service Directive: Caring for People Disclosing Sexual Assault](#)
- [Queensland Health Guideline: Guideline for the Management of care for people 14 years and over Disclosing Sexual Assault](#)
- [Ministerial Direction – Crisis Care Process](#)
- [Department of Health Guideline: Conducting Child Sexual Assault Examinations](#)
- [Office of the Director of Public Prosecutions Director's Guidelines](#)
- [Queensland Police Service Operational Procedures Manual](#)
- [Child Safety Practice Manual](#)
- [Queensland Child Protection Guide 2.1](#)
- [Victim Assistance Queensland Guidelines](#)
- [Youth detention operational policies](#)
- [QPS Sexual Violence Response Strategy 2023-2025](#)

In addition to legislation, policies, guidance and procedures, the Queensland Government joins with governments around Australia in the implementation of the *National Plan to End Violence against Women and Children 2022-2032*, the *National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030* and the recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse*.

Each government agency involved in the implementation of the guidelines has a complementary and essential role in ensuring that everyone has access to effective, timely and appropriate information, trauma-informed, victim-centred support, care and treatment following a sexual assault or sexual abuse.

Sexual assault and sexual abuse are areas of legal and social complexity. The guidelines are designed to help government agencies to work together to respond to a person who has experienced sexual assault or child sexual abuse, irrespective of their age or gender, through better understanding of one another's roles and responsibilities.

The Queensland Government encourages reporting of all forms of sexual violence.

Introduction

The 2021-22 Australian Bureau of Statistics' (ABS) Personal Safety Survey results indicate that, nationally, one in five women (22% or 2.0 million women) and one in 16 men (6.1% or 582,400 men) had experienced sexual violence since the age of 15.² These rates are higher for people with one or more risk factors, including disability, Aboriginal and Torres Strait Islander status, cultural background, or diverse sexuality or gender identity.

In Queensland, there were 7,431 victim-survivors of sexual assault recorded in 2022, which was an increase of 8% (540 victim-survivors) from the previous year. In 2022, the victimisation rate increased from a rate of 132 to 140 victim-survivors per 100,000 persons. More than four in five victim-survivors (86%) of sexual assault were female (6,415 victim-survivors). More than half of sexual assault victim-survivors (56%) were aged under 18 years at the time of the incident (4,132 victim-survivors). In 2022, most sexual assaults (66%) were experienced at a residential location (4,904 victim-survivors), often the victim-survivors' home. Most victim-survivors knew the offender (65% or 4,804 victim-survivors).³

The findings of Australian Child Maltreatment Study, published in 2023, highlighted that more than one in three girls, and almost one in five boys experience child sexual abuse. The study also found that for 78% of children who experienced child sexual abuse, it happened more than once.⁴

Children, young people and adults who experience sexual assault or sexual abuse may feel a range of emotions including shock, fear, guilt, shame, depression and an inability to trust others. The social stigma attached to sexual assault and sexual abuse can heighten these feelings and increase the trauma experience. There may be significant emotional, physical, financial and social costs, not only to those directly affected, but for the community as a whole.

Community education can encourage family and friends to respond supportively and appropriately to a disclosure of sexual assault or abuse. In order to assist their recovery, victim-survivors may also need access to a range of personal support services including counselling, medical services and assistance to report the crime to the police.

It is therefore imperative that when presenting, disclosing or reporting a sexual assault or child sexual abuse, people receive an effective, high-quality, trauma-informed, accessible and appropriate response from the agencies to which they report.

Purpose of the guidelines

- The guidelines set out the roles, high-level procedures, and shared principles that QPS, QH, DJAG, DYJ and DCSSDS have committed to using when responding to children, young people and adults who have experienced sexual assault or child sexual abuse. Individual agencies and local-level arrangements will put in place more detailed processes and procedures to complement these guidelines.
- The guidelines set the minimum standard for responses to disclosures of sexual assault or child sexual abuse.
- The guidelines set out how agencies will work together to ensure that individuals who have experienced sexual assault or child sexual abuse are provided with timely, sensitive,

² Australian Bureau of Statistics, 2023. *Personal Safety, Australia, 2021-22*. [Online] Available at: <https://www.abs.gov.au/statistics/people/crime-and-justice/personal-safety-australia/2021-22#data-downloads> [Accessed 27 June 2023]. In this dataset, sexual violence is defined as both sexual assault and sexual threats.

³ Australian Bureau of Statistics, 2023. *Recorded Crime – Victims, Queensland, 2022*. [Online] Available at: <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-victims/latest-release#queensland> [Accessed 29 June 2023].

⁴ Australian Child Maltreatment Study, 2023. *National prevalence of child maltreatment in Australia*. [Online] Available at: <https://www.acms.au/findings/> [Accessed 24 October 2023].

coordinated service responses that are appropriate to their needs and the role played by each agency.

- The information in the guidelines is intended to provide a strategic overview to support the development of policies and procedures at a local level. Local level procedures may differ in their specifics according to the nature of the service system in each area.

Scope

- The guidelines outline the recommended, and in some instances the required, agency response to presentations and disclosures of recent or historical sexual assault or sexual abuse by children, young people and adults of all ages and genders.
- Some content in the guidelines will be more applicable to victim-survivors of recent sexual assault or sexual abuse (e.g. content relating to a victim-survivor's immediate medical needs and conducting forensic medical examinations). Other content (e.g. referral to specialist services, reports to police, support to seek justice system responses) will be applicable to both recent and historical sexual assaults and sexual abuse.
- The guidelines are not intended to cover ongoing or longer-term service provision to victims and survivors (e.g. case management, counselling).
- While it is recognised that sexual harassment is also a form of sexual violence and is prohibited under the *Anti-Discrimination Act 1991*, responses to people who have experienced sexual harassment are not explicitly included in these guidelines.

Audience

- This guideline provides information for employees of Queensland Government agencies who respond to presentations or disclosures of sexual assault or child sexual abuse; specifically, QPS, QH, DJAG, DYJ and DCSSDS.
- The guidelines are available to other Queensland Government agencies and the non-government services sector to help them understand the roles each of those agencies plays and the procedures and policies in place.
- It is noted that while other agencies may have a role in supporting people who have experienced sexual assault, including responding to disclosures (for example, Department of Education, Department of Treaty Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts, and Department of Housing, Local Government, Planning and Public Works), the guidelines are written for those agencies who have a specific role in the immediate response to people who have experienced sexual assault or child sexual abuse and to inform how they work with other agencies in that role.

Governance

The government agencies responsible for delivering a service to victim-survivors of sexual assault or sexual abuse, in accordance with relevant legislation, whole-of-government policy and internal departmental procedures, are responsible for the ongoing governance of these guidelines. The guidelines are underpinned by each government agency's own internal policies and procedures which they are obligated to adhere to. Each government agency has a formal complaints mechanism which is accessible to members of the public.

The establishment of, and participation in, local sexual assault responses, which include representatives from relevant government agencies and specialist non-government sexual assault or sexual abuse services is strongly encouraged. The purpose of these networks is to collaboratively develop and implement local level policies and procedures.

Review of the guidelines

The guidelines are intended to be a living document, reviewed regularly to take account of feedback from local providers and networks, the recommendations of relevant reviews or inquiries, changes in relevant legislation or system reforms.

As outlined in Appendix 3, Representatives from relevant government departments, will review the guidelines, in consultation with the specialist sexual assault sector, through the Queensland Sexual Assault Network, on a regular basis to determine if an update to the guidelines is required.

Key terminology

Sexual assault

'Sexual assault' refers to any sexual act performed on a person without their consent. It is a crime, and includes when an offender indecently assaults a person (e.g. groping and inappropriate touching of a sexual nature) or procures them to perform sexual acts on a person without their consent. Where sexual assault includes sexual intercourse, oral sex or any form of penetration of the vulva, vagina or anus without consent, it is referred to as rape.

Consent to sexual activity must be freely and voluntarily given, and as such there are a number of situations where consent cannot be given (e.g. if the victim-survivor is asleep or unconscious, threatened or forced, unable to consent due to age or functional capacity or in some instances if they are under the influence of drugs or alcohol). Further, consent cannot be taken to be given because the person does not say or do anything to communicate that they do not consent to the act. Consent is a continuous communication and may be withdrawn at any time during the sexual act itself and any continuation of a sexual act after consent is withdrawn may constitute rape or sexual assault.

For the purposes of the guidelines, sexual assault refers to both sexual assault and rape.

Child sexual abuse

'Child sexual abuse' is any act that exposes a child or young person (under the age of 18 years) to, or involves a child or young person in, sexual activities that: they do not understand; they do not or cannot consent to; are not accepted by the community; are unlawful.

Harmful sexual behaviour

'Harmful sexual behaviour' is any behaviour of a sexual nature by or between children and young people that is outside of developmentally appropriate behaviour, is aggressive or violent or causes harm to the child or others, or where there is a substantial difference in age or developmental ability of the children or young people involved.

Victim-survivor

The term 'victim-survivor' is used to describe a person who has experienced sexual assault or sexual abuse. It is acknowledged that some people who have experienced sexual violence may prefer to be referred to as victim, or survivor, or both depending on the context. Many victims may go on to identify as 'survivors' as they move towards physical and emotional healing. 'Victim-survivor' is used in this context to encompass the broad range of experiences and perspectives of people who have experienced sexual violence or sexual abuse.

Section 1: Guiding principles

Overarching principles

Government responses to disclosures of sexual assault or sexual abuse should be guided by trauma-informed practices and framed by the following overarching principles:

- disclosures by victim-survivors will be believed, heard, and acted upon
- responses to victim-survivors will be consistent at all times with human rights as established under the *Human Rights Act 2019* and the Charter of Victims' Rights established under the *Victims of Crime Assistance Act 2009*
- all agencies will focus on the physical and psychological needs of the victim-survivors, and ensure that interpersonal interactions are trauma-informed and promote a sense of safety
- the victim-survivor's right to privacy and confidentiality will be respected at all times unless disclosure is required by another law
- comprehensive information about all processes and options will be offered in a way which is non-judgmental, appropriate, clear and sensitive to the victim-survivors in terms of language, cultural background, age, abilities, cognitive impairments, sexual orientation, gender identity and intersex status, and location
- the victim-survivor's informed decision will be respected at every stage of the process, and agencies will take a 'partnership' approach to level the power differences between agencies and victim-survivors
- the victim-survivor's sense of personal control will be supported and encouraged by maximising opportunities for control and choice
- all relevant agencies will work collaboratively to respond to sexual assault or sexual abuse to provide clear, up to date and comprehensive information about other agencies and services and facilitate access to appropriate agencies and services
- all agencies will ensure documentation and records are prepared in accordance with individual agency requirements and respect confidentiality, privacy, security and choice
- systems and services are accessible, integrated, trauma-informed and culturally responsive
- all agencies will provide responses that take into account the diversity of victim-survivors, including but not limited to cultural background, socio-economic status, abilities, age, cognitive impairments, sexual orientation, and gender identity
- all agencies demonstrate an understanding of the victim-survivor and their physical, behavioural and emotional indicators in the context of their life experiences and cultural background
- all agencies' operations and decisions are conducted with transparency and a focus on building and maintaining trust with victim-survivors, and amongst agencies and others involved in responding to sexual assault and/or sexual abuse.

Child and youth specific practice principles

Children and young people have a right to be heard, express their views and be involved in decision-making in a manner appropriate to their age and maturity level. Circumstances may arise, however, where the wishes of a child or young person need to be overridden to ensure action is taken in their best interests and their physical and emotional safety is secured and in accordance with the law. In supporting children and young people, it is important that they have at least one "believing adult" as part of their network of support.

Wherever possible, family members or caregivers should be involved in the decision-making process. This can include kinship carers, guardians or where appropriate, another trusted person.

Core principles guiding Government responses to children and young people, informed by the National Principles for Child Safe Organisations, include:

- the safety, wellbeing and best interests of children/young people are paramount
- services are culturally appropriate, equity is upheld, and diverse needs are respected
- families and communities are informed and involved in promoting child safety and wellbeing
- people working with children and young people are suitable
- physical and online environments promote safety and minimise the opportunity for children and young people to be harmed
- agencies are accountable for the safety and wellbeing of the children they are in contact with.

All agencies should work collaboratively to provide responses that are trauma-informed, including to:

- maximise a child/young person's sense of safety
- assist children in reducing overwhelming emotion
- help children make new meaning of their trauma history and current experiences
- address the impact of trauma and subsequent changes in the child's behaviour, development and relationships
- coordinate services within health facilities including information sharing and with other agencies, reducing the need for the child to tell their story multiple times
- utilise comprehensive assessment of the child/young person's trauma experiences and their impact on the child/young person's development and behaviour to guide services
- support and promote positive and stable relationships in the life of the child/young person, which may include extended safety and support networks, schools, sporting clubs – whatever avenues for continuity are available
- provide support and guidance to the child/young person's family and caregivers
- manage professional and personal stress.⁵

Confidentiality cannot be guaranteed where a child or young person is believed to be in need of protection from harm, including from child sexual abuse. To meet the best interests of that child or young person and to comply with mandatory reporting requirements, information may need to be exchanged between departments and other key stakeholders. It is best practice for the child or young person to be advised that a report to DCSSDS and the police may take place. Certain circumstances may restrict the information provided to the child and their family about information provided to the DCSSDS and/or police.

It is important to note that the new offence of *Failure to report belief of child sexual offence committed in relation to child* in section 229BC (Failure to report) of the Criminal Code creates an obligation on all adults to report a belief that a child sexual offence has been or is being committed, unless they have a reasonable excuse. A reasonable excuse includes, amongst other things, making a report to police or DCSSDS under other mandatory reporting obligations. More information about this obligation and the reasonable excuse is set out below.

⁵ See Quadara, A. and Hunter, C. 2016. *Principles of trauma-informed approaches to child sexual abuse: A discussion paper*, Sydney: Royal Commission into Institutional Responses to Child Sexual Abuse; see also, Australian Institute of Health and Welfare, 2011. *Young Australians: Their health and wellbeing*, Canberra: Australian Institute of Health and Welfare.

Wherever possible, family members should be included in decision-making and be provided with education and support. Service providers should aim to promote the relationship between the child and safe family members, wherever possible.

Support and education should be given to family members on how to best support their child and rebuild and strengthen their family unit.

Informed consent for medical procedures

A person who has been sexually assaulted or abused has the right to determine their own path to recovery and should be supported in making an informed decision about whether they would like to proceed in a legal or medical process. Informed consent reflects a legal and moral principle whereby the victim-survivor has the right to decide what is appropriate for them. It is the responsibility of the treating clinician to assess a person's capacity to consent. If an adult patient lacks capacity to make a decision about their health care, health staff will refer to section 2.2 of the *Queensland Health Guide to Informed Decision-Making in Health Care* and contact the relevant substitute decision maker.

To ensure victim-survivors are supported in making decisions about legal or medical processes, any party to whom a sexual assault or sexual abuse is disclosed should provide information about the processes involved, including options available, such as police reporting, the benefit of reporting early, Collect and Store forensic examinations and their rights as a victim-survivor of crime. Further information on these matters can be provided to the victim-survivor by more specialised parties such as sexual assault/sexual abuse workers or social workers, police, or Forensic Physicians/Medical Practitioners/Forensic Nurse Examiners/Sexual Assault Nurse Examiners/Nurse Practitioners as relevant.

Victim-survivors will be supported to report the assault to police. However, where a victim-survivor with the capacity to consent is not certain that they want police involved at the time of disclosure or presentation to hospital, they may choose to have a Collect and Store forensic examination. This may include a child aged 14 – 17 years of age who has parental consent for the examination and/or is a Gillick-competent child.

The victim-survivor should be made aware that they may withdraw their consent at any time to any procedure, or any aspect of the examination.

Consent, and authority to consent, for an adult with impaired decision-making capacity

It is the responsibility of the medical/nursing and forensic health staff to assess capacity to consent. If an adult victim-survivor lacks capacity to make a decision about their health care (excluding forensic examinations), health staff will refer to section 2.2 of the *Queensland Health Guide to Informed Decision-Making in Health Care* – available at https://www.health.qld.gov.au/data/assets/pdf_file/0019/143074/ic-guide.pdf – and contact the relevant substitute decision maker.

Where a health care provider has assessed an adult victim-survivor lacks capacity to make a specific decision, they are obliged to seek consent to carry out the health care. This consent can be provided under an advance health directive, from a guardian or attorney, or from a statutory health attorney listed in the *Powers of Attorney Act 1998* (e.g. spouse, family, friend).

The Public Guardian is the health care decision maker of last resort and operates a consent phone service for all health care professions, including requests to consent to forensic examinations. This line operates Monday–Friday 7am–7pm and Saturday, Sunday and public holidays 9am–5pm. Requests for information and non-urgent requests for health care consent made through the phone service will only be responded to within business hours.

Consent to a forensic examination is not healthcare consent. The Public Guardian, and guardians and attorneys appointed for personal matters, may consent to the forensic examination of an adult with

impaired decision-making capacity. However, statutory health attorneys (e.g., spouse, family, friend) cannot consent to a forensic examination on behalf of an adult with impaired decision-making capacity. As a person's capacity is decision-specific, in most cases an adult victim-survivor can provide their own consent for a forensic examination, without the need to seek substitute consent.

If at any point there is a possibility that the victim-survivor's guardian, attorney or support person is identified as, or suspected to be, the offender, the matter should be referred to the Office of the Public Guardian (OPG) for investigation into the victim-survivor's decision-making arrangements. OPG's statutory investigations function focuses on whether the decision-making arrangements for the adult with impaired decision-making capacity are adequate and appropriate. Any referral to OPG should be done in conjunction with determining options for pursuing justice, including immediate police reporting or a forensic examination, not in lieu of these options.

Consent, and authority to consent, for children and young people

Consent and authority to consent is required prior to the provision of general medical assessment and treatment, and/or a forensic medical examination (FME), depending on the age and ability of the child or young person. The definition of consent must be inclusive of the provision of the information required to make an informed decision.

For a general medical assessment including genital examination, verbal consent is obtained from the child, if capable of providing valid consent, or if not, consent will be sought from the guardian. Written consent is always required for an FME.

For a child or a young person up to the age of 16 years, guardianship of the child or young person will be established. Generally, young people aged 14 years and over will be Gillick-competent and able to provide consent to general medical care and FME.

For young people aged 14 to 16 years consent for an FME can be obtained from the young person and not their guardian, when Gillick competence has been established.

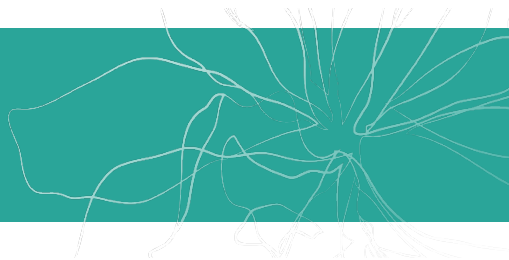
For children under the age of 14, and where clinicians are not able to obtain the consent of a guardian to receive general medical assessment and treatment, and/or an FME, Gillick competence can be assessed to determine if the child or young person is able to provide consent.⁶ This includes instances where a young person does not want their guardian to be contacted for the purpose of obtaining consent.

In circumstances where the suspected offender is the child or young person's guardian, the chief executive, or authorised officers of DCSSDS can make a legal request for medical care and/or FME as per Sections 14 and 97 of the *Child Protection Act 1999* (CPA). This request can be made for children up to the age of 12 and for young people for whom Gillick competence has not been established.

Can a child with capacity decline health care and/or an FME?

The [Guide to Informed Decision-making in Healthcare](#) details that a child or young person who has capacity to consent to health care can also decline health care. If the child or young person has sufficient capacity to consent to the specific healthcare, and the health practitioner considers it is in their best interests, their wishes are usually honoured. However, particularly for health care where there are significant risks, it will usually be appropriate to consider seeking a second opinion from a senior, experienced, medical practitioner and obtaining legal advice. Refer to the [Guide to Informed Decision-making in Healthcare](#) for more information.

⁶ For definition of Gillick competence, see Appendix 1. For more information, see QH's *Guide to Informed Decision-making in Health Care*, 2nd edition, 2017, available at: https://www.health.qld.gov.au/data/assets/pdf_file/0019/143074/ic-guide.pdf (accessed 8 April 2019)



Charter of Victims' Rights

The [Charter of Victims' Rights \(the Charter\)](#), set out in Chapter 2 of the *Victims of Crime Assistance Act 2009* (VOCAA), governs the conduct of government and government-funded agencies, their officers and funded non-government agencies that provide services to victims of crime.⁷

A full description of the rights identified in the Charter are found in VOCAA. Relevant to this document, rights include:

Respect, courtesy, compassion and dignity

A victim will be treated with courtesy, compassion, respect and dignity, considering the victim's needs.

Privacy

A victim's personal information, including the victim's address and telephone number, will not be disclosed unless authorised by law.

Information about services

A victim will be informed, at the earliest practicable opportunity, about services and remedies available to the victim.

Information about the criminal process and the criminal justice system

The victim will be informed about the investigation, prosecution and other court matters, including bail applications, the role of a witness, protection of victim at court and making a Victim Impact Statement.

Post-conviction information about the offender

Eligible victims can register to receive information about the offender's period of imprisonment or detention, or if the offender has escaped or is unlawfully at large.

A right to complain about a contravention of a right under the charter

If a victim of crime feels they have been treated unfairly or without respect or that a government agency, person or persons within the agency have engaged in conduct that is not consistent with the Charter, they have the right to make a complaint. A friend or family member may also make the complaint for the victim, with their permission.

Victims can access information about making a complaint by calling Victim Assist Queensland (VAQ) on 1300 546 587 or online at <https://www.qld.gov.au/law/your-rights/victim-rights-and-complaints/victim-complaints>.

⁷ Source: <https://www.qld.gov.au/law/crime-and-police/victims-and-witnesses-of-crime/agency-training-funding-and-research/rights-of-victims>.

Section 2: Responding to disclosures of sexual assault or sexual abuse

Responding to a disclosure of sexual assault

After disclosure of a sexual assault, the following needs of the victim-survivor should be addressed:

- immediate safety needs
- immediate health needs (including medical and psychosocial needs)
- options for pursuing justice, including police reporting or a Collect and Store forensic examination
- ongoing emotional needs for longer term wellbeing.

In order to avoid secondary traumatisation and mitigate the risk of negative, long-term outcomes, responses to victim-survivors of sexual assault must be trauma-informed, victim-centric, sensitive, empathetic and effective. This involves allowing the victim-survivor control over what is happening where possible, listening to and believing the victim-survivor, emphasising that it is not the victim-survivor's fault, not blaming the victim-survivor, providing emotional support and staying calm. Victim-survivors are less likely to disclose if they feel they will not be believed, expect a negative reaction or response, or believe the disclosure will have negative consequences for them or others. Victim-survivors may also not disclose if the behaviour is normalised in their environment, or they don't know how to disclose.

The responses to the victim-survivors need to consider their diversity, including their cultural and linguistic background, abilities, cognitive impairments, sexual orientation, gender identity, age and geographical location. In addition to assisting recovery, more sensitive and effective responses may also lead to an increase in reporting rates.

Responding to a disclosure of sexual assault or sexual abuse of a child or young person

When a child or young person under the age of consent discloses sexual abuse (including allegations of sexual assault), the recipient of the disclosure must report this event and act in accordance with their organisation's procedures, their role, any mandatory reporting obligations, and the requirements to report and protect under the Criminal Code (unless they have a reasonable excuse). Should the disclosure be reported under mandatory reporting obligations to DCSSDS, there is no need to also make a report to police under the Criminal Code requirements, as reporting to DCSSDS will meet the reasonable excuse requirements. Where possible, the individual should support the child or young person by reassuring them, listening, and assessing and supporting the child's physical and emotional safety.

Disclosure may be verbal or non-verbal, accidental or intentional, partial or complete. Children or young people who have been sexually abused may exhibit a range of physical, behavioural and emotional indicators that could suggest distress, trauma and abuse. Service providers and practitioners need to be aware of and alert to these possible indicators of sexual abuse.

When responding to a disclosure of sexual assault or sexual abuse by a child or young person, the response must be appropriate to the age and developmental stage of the child or young person. The response should be warm and empathetic. As with adults, the provision of emotional support involves listening to and believing the child or young person, emphasising that it is not their fault and not blaming them or using language which could cause them to feel responsible. Families, carers and other support

people perform an important role in assisting children and young people to understand sexual safety messages and encourage disclosure when incidents of sexual abuse or assault occur.

Children and young people are less likely to disclose if they feel they will not be believed, expect a negative reaction or response, or believe the disclosure will have negative consequences for them, their families or their communities.

Investigating allegations of sexual abuse is not the responsibility of the person to whom the disclosure is made. Investigations into sexual abuse are the responsibility of QPS.

Children displaying harmful sexual behaviours

In some cases, it may be difficult to distinguish developmentally appropriate sexual behaviours in children and young people from those that may be problematic or harmful. In these situations, it may be useful to use research-based guidance.

When supporting children and young people with problematic or harmful sexual behaviours, the priority remains the safety of the victim-survivor. Agencies supporting children and young people with harmful sexual behaviours must take appropriate action to promote the safety of all children within the home or other settings, such as schools.

Domestic and Family Violence

Domestic and family violence can include sexual violence. Sexual activity through coercion, such as coercive control or emotional abuse, is a form of sexual assault.

People responding to victim-survivors of intimate partner sexual violence should prioritise the safety of the victim-survivor and where appropriate, they should be referred to a specialist domestic violence service for support and assistance, including referrals to emergency accommodation as required. Note, consent for referrals should always be sought where it is safe to do so. Refer to the Queensland Domestic and Family Violence Information Sharing Guidelines for further information (see below).

Sexual violence should be considered among other risk factors in determining a person's level of risk of harm from further violence. Sexual assault/violence is considered to be a high risk factor for severe harm or death under the [Queensland Domestic and Family Violence Common Risk and Safety Framework](#).

Information and advice is available from DVConnect Womensline on 1800 811 811, or DVConnect Mensline on 1800 600 636. Extensive information is also available on the Queensland Government DFV Portal (<https://www.qld.gov.au/community/getting-support-health-social-issue/support-victims-abuse/domestic-family-violence>).

Health staff can also refer to the QH DFV resources to support the health workforce for further advice on supporting people who have experienced DFV: [Queensland Health's DFV Toolkit of Resources](#).

Domestic Violence Protection Orders

Where the sexual assault has occurred within an intimate partner relationship, family relationship or an informal care relationship, the victim should be informed of their option to seek protection under the *Domestic and Family Violence Protection Act 2012* (DFVPA). In situations where domestic violence has occurred and where protection is needed to prevent further violence, a domestic violence order can be applied for by the victim-survivor, by police on behalf of the victim-survivor or by another person authorised by the victim-survivor. This is done through the Magistrates Court. More information can be found on the courts website (<https://www.courts.qld.gov.au/going-to-court/domestic-violence/domestic-violence-orders>).

Domestic and Family Violence Information Sharing Guidelines

The DFVPA includes provisions for information sharing between government and non-government agencies to improve the safety of victims of domestic and family violence and better hold perpetrators to account.

To support practitioners in the field of domestic and family violence, such as specialist services, police and doctors, to appropriately share information, Domestic and Family Violence Information Sharing Guidelines have been developed. The Information Sharing Guidelines provide information about what is permitted under the legislation, who is allowed to share information, what circumstances allow information sharing without consent to ensure the safety of victim-survivors and children, and what information can be shared. The Information Sharing Guidelines are available at:

<https://www.justice.qld.gov.au/initiatives/end-domestic-family-violence/our-progress/strengthening-justice-system-responses/domestic-family-violence-information-sharing-guidelines>.

Section 3: Role of Key Government Agencies

Queensland Police Service (QPS)

QPS has three main functions in relation to sexual assault or sexual abuse cases:

1. Investigate complaints of sexual assault or sexual abuse and establish whether an offence of sexual assault or sexual abuse has been committed.
2. Protect victim-survivors of sexual assault or sexual abuse from further victimisation.
3. Identify, apprehend, and charge offenders.

In carrying out this role, police will:

- observe QPS Operational Procedures Manual
- observe QPS local procedures or instructions
- observe legislative requirements
- observe the Charter of Victims' Rights
- provide victim-survivors with information regarding the investigation and prosecution
- provide protection to victim-survivors at immediate risk of sexual assault or sexual abuse
- provide victim-survivors with information about support services.

QPS maintains an online resource for adult sexual assault to provide victim-survivors with information about their options following rape or sexual assault to assist in making informed decisions, including advice on issues such as: myths and facts; reporting to police; alternative reporting options; support services; and the court process.

The resource is available at: <https://www.police.qld.gov.au/units/victims-of-crime/support-for-victims-of-crime/adult-sexual-assault>

Queensland Health (QH)

Queensland Health, Hospital and Health Services (HHSs) provide 24-hour access to clinical and psychosocial care and forensic examinations (including Collect and Store⁸ examinations). These responses are provided by medical officers, nurses and social workers at public hospitals, Forensic Physicians, Forensic Nurses and Government Medical Officers, and may involve specialist sexual assault teams. The extent and nature of this care varies across HHSs in accordance with local procedures and resources.

Assistance and care in the acute phase includes:

- for HHSs to which the [Ministerial Direction – Crisis Care Process](#) applies:
 - acceptance into immediate care by the HHS; and
 - commencement on the HHS's Clinical Pathway within 10 minutes of the disclosure or presentation
- medical assessment and treatment if required
- acute psychosocial support

⁸ Collect and Store examinations are discussed in greater detail on page 29

- information about options for FMEs and reporting the assault to the police, including the benefits of early reporting
- provision of forensic examinations to victims of sexual assault and abuse where consent is given
- adherence to informed consent for all aspects of caring for people disclosing sexual assault, including clinical treatment, forensic examinations, evidence collection and storage, police involvement, referrals and the release of information to third parties
- provision of clear information about the storage, access and destruction of forensic examination samples to victim-survivors of sexual assault who have a forensic examination but choose to defer the decision to report the assault to police
- provision of information, including about sexual health, victim-survivors' rights, reporting to police, legal processes, and support networks and services
- referral with consent and/or information provided regarding sexual assault counselling and support services.

Child or young person

In addition to the above, when responding to sexual abuse and/or sexual assault of a child or young person QH will:

- ensure sufficient history is taken to enable an appropriate clinical and forensic examination
- manage child protection concerns in a timely manner
- undertake an FME, if required.

Whilst the definition of a child is a person aged up to 18 years, QH has several age distinctions relevant to responding to the health needs of children and young people who have experienced sexual abuse/assault:

- for children and young people under 14 years of age, medical examinations for sexual assault must be performed by a medical officer or nurse with appropriate paediatric skills, including child protection and/or sexual assault medical examination training or skills
- for young people aged 14-16 years who present initially to a paediatric facility, assessment will be made on a case-by-case basis as to the best facility to meet the young person's needs. This may mean that the young person is referred to a service that provides care to persons aged 14 years and above for a holistic assessment, including medical examination.

Forensic Science Queensland

Forensic Science Queensland (FSQ) is currently situated within Queensland Health, however by 2024 will be established as a statutory entity with DJAG.

FSQ, formerly part of Forensic and Scientific Services, provides expert forensic testing and advice to the Queensland criminal justice and coronial systems. This includes body fluid analysis, lubricant analysis, and DNA analysis, interpretation and the provision of expert testimony in Queensland courts.

FSQ works in close partnership with FMQ and QPS to ensure that FME evidence collection, transport, storage and analysis is optimised and compliant with international standards to ensure the best quality scientific outcomes.

Department of Justice and Attorney-General (DJAG)

The Office of the Director of Public Prosecutions (ODPP), the Office of the Public Guardian (OPG), Victim Assist Queensland (VAQ), Queensland Courts and Women's Safety and Violence Prevention

(WSVP) fall within the responsibilities of DJAG. The following provides an overview of each of these agencies.

Office of the Director of Public Prosecutions

The ODPP represents the Crown in criminal proceedings against persons accused of committing serious criminal offences including sexual assault and sexual abuse. Criminal proceedings include:

- the committal hearing, before a Magistrate in Brisbane Central, Ipswich and Southport Magistrates Courts. In other centres, this hearing is conducted by prosecutors within QPS
- trials before a judge alone or a judge and jury
- sentencing hearing before a judge
- any appeals arising from the trial or sentence.

In addition to prosecuting matters in court, the ODPP is responsible for:

- assisting victim-survivors by providing information about the progress of a prosecution, the victim-survivor's role as a witness, and how the victim-survivor can inform the court of the impact of the crime by providing a victim impact statement
- giving victim-survivors reasons for decisions made in relation to proceedings which directly affect them
- taking into account the wishes of a victim-survivor who does not wish to proceed with a prosecution for any reason
- providing information about the availability of other resources and processes that may assist victim-survivors
- requesting that the court give sexual assault or sexual abuse matters appropriate priority
- ensuring the victim-survivor has minimal contact with or exposure to the offender during court proceedings or in the court building
- liaising with other relevant agencies to assist the victim-survivor and family members to understand the legal and procedural issues which may impact them.

In carrying out the role of the ODPP, all officers are obliged to comply with the Director's Guideline No. 25 as at 2016, available at: <https://www.publications.qld.gov.au/dataset/odpp>. This aims to ensure that the Charter of Victim's Rights, as set out in the amended *Victims of Crime Assistance Act 2009*, are complied with.

Office of the Public Guardian

OPG is an independent statutory office which protects the rights, interests and wellbeing of adults with impaired decision-making capacity, and children and young people in the child protection system or staying at a visitable site. This includes children and young people in out-of-home care (defined below).

OPG's community visitors and child advocates are mandatory reporters under the CPA and must report to the Chief Executive of Child Safety any reasonable suspicions that a child or young person has suffered, is suffering, or is at unacceptable risk of suffering significant harm caused by physical or sexual abuse, and the child or young person does not have a parent able and willing to protect the child or young person from harm.

OPG provides individual advocacy to children and young people who may be victim-survivors of sexual abuse or sexual assault through the following functions:

- the child advocacy function offers person-centred advocacy for children and young people in the child protection system and elevates the voice and participation of children and young people in decisions that affect them

- the child community visiting oversight function, which monitors and advocates for the rights of children and young people in the child protection system, including out-of-home care (foster and kinship care), or staying at a visitable site (residential facilities, youth detention centres, authorised mental health services, and disability funded facilities).

For adults with impaired decision-making capacity who may be victim-survivors of sexual assault or sexual abuse, OPG performs the following statutory functions:

- the guardianship function undertakes structured (supported and substitute) decision-making in relation to personal matters, supporting adults to participate in decisions about their life and acknowledging their right to live as a valued member of society. This includes providing consent to forensic examination
- the investigations function investigates complaints and allegations that an adult with impaired decision-making capacity is being neglected, exploited or abused or has inappropriate or inadequate decision-making arrangements in place. OPG's investigative function is different to the criminal investigative function of the QPS. OPG's investigative function is focused on determining whether the adult's decision-making arrangements (for example, an attorney under an Enduring Power of Attorney document) are lawful, appropriate, and do not expose the adult to abuse, neglect or exploitation. OPG does not investigate whether a criminal offence has been committed. OPG has an interagency reporting arrangement to report allegations of abuse including sexual assault to the QPS
- the adult community visiting function independently monitors visitable sites (authorised mental health services, the Forensic Disability Service, community care units, locations where people are receiving specified NDIS supports, and level 3 accredited residential services). Community visits inquire into the appropriateness of the site and facilitate the identification, escalation and resolution of complaints by or on behalf of adults with impaired decision-making capacity staying at those sites.

Victim Assist Queensland

VAQ provides information, referrals to specialised support services and financial assistance for victim-survivors of personal acts of violence including sexual assault or sexual abuse. This may include court support or advice about Victim Impact Statements.

Irrespective of age or gender, victim-survivors of any sexual offence that has occurred in Queensland can apply for financial assistance through VAQ.

Under VOCAA, a victim-survivor is considered a *Special Primary Victim* if any of the following apply:

- they were the victim-survivor of a sexual offence
- the offender was in a position of power, authority or trust
- the act of violence was domestic violence that occurred after 1 July 2017
- they were a child when the act of violence occurred
- they had or have an impaired capacity
- they are being or have been threatened or intimidated by the offender or someone else.

For the purposes of applying for financial assistance, a Special Primary Victim can report the violence to either:

- a police officer
- their counsellor, psychologist or doctor, or
- a domestic violence service.

Special conditions apply if the victim-survivor is a child or young person (under 18):

- the crime must be reported; either to police or an appropriate doctor, psychologist or counsellor

- in most cases the victim-survivor's parent or legal guardian completes the application for financial assistance on behalf of the victim-survivor
- if the parent or legal guardian is unable or unwilling to complete the form (including if the child is subject of a Child Protection Order), the victim-survivor or their doctor, psychologist, counsellor or support person should contact VAQ for advice
- if the young person is over the age of 12 years and they would like to apply independently, a lawyer can help the young person with their application. The young person should contact VAQ and request a referral to an appropriate free legal service
- if a child or young person is granted financial assistance, any lump sum payments (e.g. recognition payments) must be paid to the Public Trustee to be held in trust for the benefit of the child or young person.

VAQ provides information, referrals and support (which may include court support) to victim-survivors.

VAQ provides education and training to government and non-government agencies, with an aim to broaden community knowledge of the rights and needs of victim-survivors of crime, including sexual offences.

Queensland Courts

Queensland Courts afford victim-survivors of sexual offences, affected child witnesses and special witnesses, protections when proceeding through court. These are detailed in the *Evidence Act 1977* (EA) and the *Criminal Law (Sexual Offences) Act 1978*.

Section 21A of the EA outlines the protections for special witnesses and affected child witnesses.⁹ When the court hears evidence from special witnesses, there are a range of options to assist the witness. These include ensuring the victim-survivor has minimal contact with or exposure to the offender during court proceedings or in the court building. Where the witness is an affected child witness, there are further protections in place.

In addition, the DFVPA affords special protections to victim-survivors who are deemed 'protected witnesses.' This is relevant for cases where sexual violence has occurred in the context of domestic or family violence.

Section 150 states that victim-survivors, children and relatives or associates of the aggrieved (that is, named in the application that relates to the proceedings) are a protected witness for the purpose of giving evidence under the Act. This section allows the court to consider whether orders should be made as to how the protected witness gives evidence, including:

- video link
- pre-recorded evidence
- a screen, glass or partition in the court room
- the respondent be held in a separate room while the witness is giving evidence
- allowing support persons
- if a person with disability, that the protected witness can give evidence in any particular way specified by the Court that will, in the court's opinion minimise the protected witness's distress
- any other alternative arrangement the court considers appropriate.

Section 151 seeks to restrict cross-examination in person by self-represented respondents. The court, on its own initiative or on application of a party to the proceeding, may order that the respondent may not cross-examine a protected witness in person if the cross-examination is likely to cause the protected witness to suffer emotional harm or distress, or be so intimidated as to be disadvantaged as a witness.

⁹ For definitions, see Appendix 1.

For further information refer to the Supreme and District Courts Criminal Directions Bench Book available at: <https://www.courts.qld.gov.au/court-users/practitioners/benchbooks/supreme-and-district-courts-benchbook>

Women's Safety and Violence Prevention (WSVP)

Women's Safety and Violence Prevention (formerly the Office for Women and Violence Prevention) is responsible for policy and program management for domestic family and sexual violence. WSVP works to enable women and families to be safe and to prevent and respond to violence and abuse.

WSVP has oversight responsibility for the implementation of *Prevent. Support. Believe. Queensland's Framework to Address Sexual Violence* (the Framework). The Framework addresses all forms of sexual violence, including sexual assault and sexual abuse. Priority areas 2 and 3 of the Framework are particularly relevant to these Guidelines: *Support and healing*; and *Accountability and justice*. The Framework is implemented through a series of whole-of-government Action Plans. The Framework and Action Plans are available at: <https://www.justice.qld.gov.au/about-us/services/women-violence-prevention/violence-prevention/sexual-violence-prevention/framework>.

WSVP also has policy responsibility for the development and management of the guidelines, coordinating on behalf of all responsible agencies and undertaking engagement with relevant service sector representatives.

Non-government organisations

WSVP administers funding to non-government organisations to assist people who have experienced sexual assault and (along with DCSSDS) children and young people who have been sexually abused in accessing the necessary services and support they need to rebuild their lives. These services are a critical part of the government's response to sexual assault and sexual abuse. Sexual violence support services offer flexible, holistic and ongoing support and counselling in a culturally appropriate manner and in a safe environment.

Support provided by these services includes:

- provision of information, advice and referral
- needs assessment and development of case/service plans
- individual advocacy
- trauma-informed counselling, including crisis counselling, for victim-survivors of sexual assault or sexual abuse
- victim-survivor support groups and community education.

The role each sexual violence support service takes within the service system is influenced by local service arrangements. Government agencies should liaise and work with non-government service providers as a critical stakeholder in formulating local responses to sexual assault and sexual abuse where possible.

For more information about access to sexual assault or sexual abuse services in local areas, contact the Sexual Assault Helpline on 1800 010 120 or online at: <https://www.qld.gov.au/community/getting-support-health-social-issue/support-victims-abuse/sexual-abuse-assault/sexual-abuse-assault-getting-help>

Department of Child Safety, Seniors and Disability Services (DCSSDS)

DCSSDS is responsible for a range of services and responses across the areas of child and family support and child protection. DCSSDS works to enable children, young people and families to be safe and to thrive in culture and communities, and to prevent and respond to violence, abuse and neglect.

DCSSDS is dedicated to protecting children and young people who have been harmed, or are at risk of harm. It is the role of DCSSDS to intervene in cases of child sexual abuse when a parent is not able and willing to protect the child from harm, regardless of how the harm occurred. In these situations, professionals should immediately report their concerns to DCSSDS (see section on reporting child protection concerns). Effective protection of children relies on community members reporting their concerns in a timely way.

DCSSDS has a legislative responsibility to ensure the safety, wellbeing and best interests of a child or young person in short-term accommodation support and out-of-home care, and to report any alleged harm to a child or young person involving the commission of a criminal offence to QPS.

DCSSDS has a responsibility to provide a response to children and young people who have been sexually abused whilst in out of home care, irrespective of who is responsible for the sexual abuse. DCSSDS policy is available at: [Child Safety Policy \(cyjma.qld.gov.au\)](http://cyjma.qld.gov.au)

DCSSDS is leading the Queensland Government's participation in the National Redress Scheme for people who have experienced institutional child sexual abuse. The National Redress Scheme has been developed in response to the Royal Commission into Institutional Responses to Child Service Abuse. More information about the National Redress Scheme may be found at: www.nationalredress.gov.au or by calling 1800 737 377.

After hours support

The Child Safety After Hours Service Centre (formerly Crisis Care) is a statewide service that provides after hours responses to clients of DCSSDS, members of the public and staff from government departments and community agencies in relation to child protection matters. If there is a problem or concern that an agency or service provider may have about the wellbeing and safety of a child or young person, they may contact the Child Safety After Hours Service Centre on 07 3235 9999 or 1800 177 135 (Queensland only).

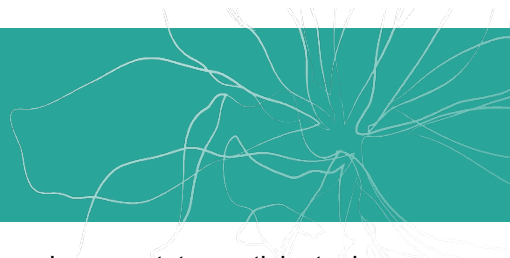
Department of Youth Justice (DYJ)

DYJ is responsible for keeping communities safe by addressing the drivers of youth crime and better supporting young people on the transition to adulthood so they can avoid becoming entrenched in the criminal justice system. DYJ also provides young people with alternative pathways that create better lives, brighter futures and give children a great start.

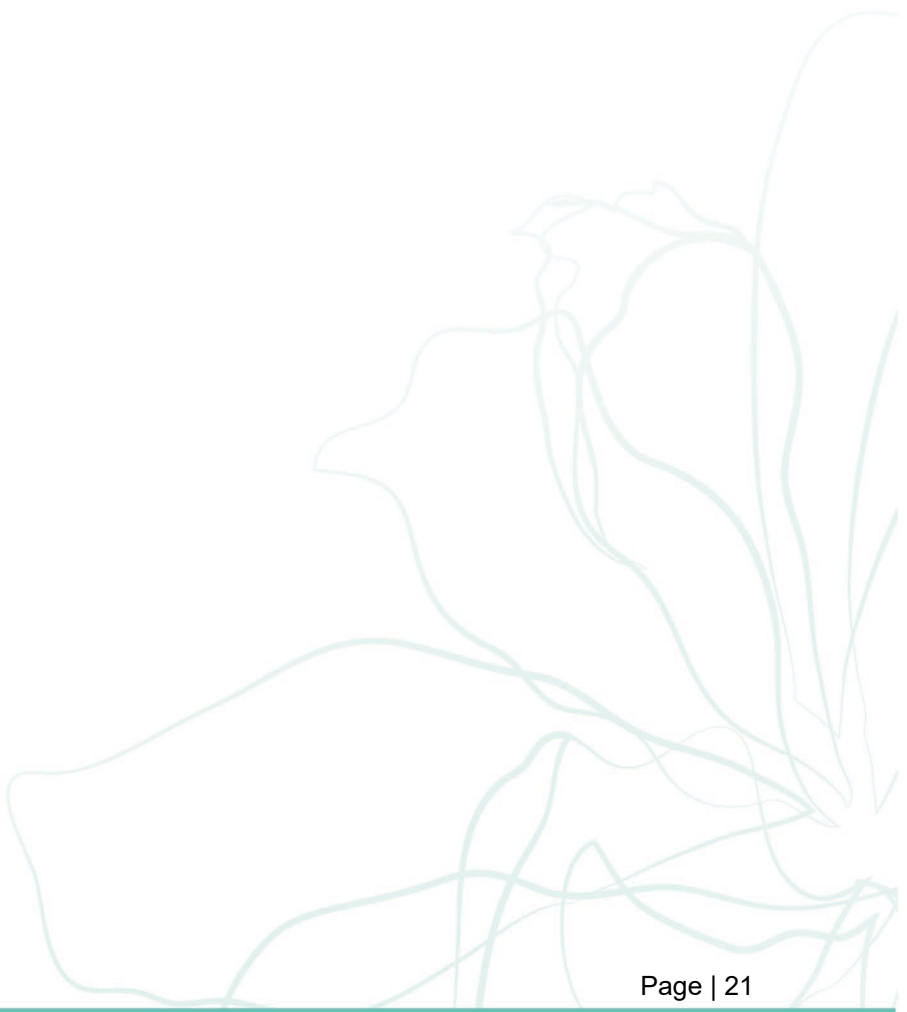
The provision of services to young people in the youth justice system and broader community including, helping young people at court, supervising young people sentenced by the court and detaining high risk young people within youth detention centres is a key responsibility of DYJ.

The department also has legislative responsibility to ensure the safety and wellbeing of young people within youth detention centres, which includes reporting any suspected harm a young person has suffered whilst detained and has an associated operational policy for identifying and reporting suspected harm in a youth detention centre. DYJ must also report disclosures of harm that are alleged to have occurred prior to admission to relevant agencies for assessment and action. Young people in youth detention centres have direct access to psychologists, case workers and cultural liaison officers, and in partnership with Queensland Health, a range of primary and mental health care staff who operate onsite and provide a 24/7 care service delivery model.

The Restorative Justice program run by DYJ provides young people and victim-survivors an alternative process to a matter being dealt with by a court, where appropriate. These processes include a restorative justice conference which is a meeting between a child or young person who has committed a crime and the people most impacted by that crime to discuss what happened, the effects of the offence, and how to repair the harm caused to the victim-survivor. To safeguard the victim-survivor, additional procedures are adopted before a conference for a sexual assault or sexual abuse, including referring the victim-survivor to a specialist sexual assault counselling service as well as compulsory attendance of the young offender in a specialist treatment service. Additional considerations should be



given to the victim-survivor's age, and their ability to provide informed consent to participate in restorative justice proceedings.



Section 4: Interagency approach

Given the often violent and complex nature of sexual assault and sexual abuse, an interagency approach is essential. QPS, QH, DJAG, DYJ and DCSSDS each have a different but fundamental role in responding to sexual assault and sexual abuse. Each of these agencies should assist each other in understanding and supporting their role and be familiar with, and sensitive to, their differing and complementary roles. An interagency approach provides opportunities to discuss and address issues of mutual concern across departments.

Teamwork

Quality of care depends on partnership between different agencies. Each agency should establish local procedures to facilitate improved liaison and coordination between services. These procedures should include systems for the sharing of authorised information and conflict resolution.

To improve the overall wellbeing and outcomes for victim-survivors of all ages and genders, all involved agencies should focus on a multi-agency response that provides wrap-around services which are trauma-informed, victim-centred, and responsive to local needs and service context.

Training

Joint training can contribute to achieving interagency objectives and allow those working in the field to understand how best practice is achieved. Training and orientation should be ongoing and could include input from relevant local services.

Confidentiality

Confidentiality, privacy of information and security of records is imperative when working with people who have experienced sexual assault or sexual abuse. It is a fundamental principle in treating victim-survivors with dignity and respect.

Access to and disclosure of personal information regarding the assault or abuse must conform to legal requirements. Except where legal obligations exist, information will not be released without the prior informed consent of the person involved. This includes names and identifying information.

Access, availability and promotion of services

Agencies should offer all victim-survivors information about medical, counselling, police and legal services. In some cases, people who have experienced a sexual assault or sexual abuse may need support to access services due to a range of cultural, historical or personal factors (e.g. due to inappropriate past service responses). Where possible, services that are tailored to the individual and cultural needs of victim-survivors should be offered.

Referrals

Relevant referral procedures and guidelines between police, health, child safety and justice services should be observed.

Staff of government agencies should be familiar with local specialist services and actively support people of all ages who have experienced sexual assault or sexual abuse to access appropriate supports available in their community.¹⁰ In addition, relevant health, welfare and legal services likely to be accessed by victim-survivors will need to develop local strategies and procedures to ensure that referral processes are appropriate and coordinated. These services should also be aware of the admission procedures and location of the nearest health facility and police station.

¹⁰ For examples of available services, see [Sexual abuse and assault: getting help](#)

Referrals for children and young people presenting with family should consider the needs of the family as a whole and, where available, refer the family to an appropriate family support service.

The Queensland Government maintains webpages with listings of specialist sexual assault services across the state, such as hospital-based sexual assault services, helplines, and funded sexual assault support services for diverse population groups, which may assist in providing referrals to appropriate services. For information see: <https://www.qld.gov.au/community/getting-support-health-social-issue/support-victims-abuse/sexual-abuse-assault/sexual-abuse-assault-getting-help>; and <https://www.health.qld.gov.au/sexualassault/html/contact>

Feedback

Quality of care is essential in ensuring that people are referred to the appropriate service. QPS, QH, DJAG, DYJ and DCSSDS should ensure that local interagency links and procedures operate in a coordinated manner. Mechanisms for giving feedback about service delivery should also be in place and observed.

Responsiveness to diverse needs

Procedures need to be flexible and sensitive in order to respond to diverse needs, including: cultural background; language; gender identity or intersex status; ability; religion; sexual orientation; and geographical location. Procedures also need to be sensitive and responsive to children with a history of trauma, such as child abuse, neglect, or interactions with child protection. Furthermore, it is important to understand how these needs impact access to and utilisation of appropriate services.

All agencies should ensure that procedures and facilities provide safe, appropriate access to culturally responsive services for Aboriginal and Torres Strait Islander people, people of non-English speaking backgrounds, prisoners and former prisoners, people with disability, including physical and cognitive impairments and mental illness, LGBTIQ+ people, older people, and sex workers.

It is imperative that, with consent, professional and/or accredited interpreter services are provided where needed (see relevant section below).

Aboriginal and Torres Strait Islander people

Service provision should reflect the cultural needs of Aboriginal and Torres Strait Islander people.

Agencies should have a referral mechanism to facilitate access to culturally responsive, safe and appropriate information for Aboriginal and Torres Strait Islander people. Where there is consent and it is appropriate to do so, Aboriginal and Torres Strait Islander liaison workers may be offered to assist people during the process.

Agencies responding to disclosures of sexual abuse from an adult, child or young person who identifies as Aboriginal or Torres Strait Islander should, where possible, offer services tailored to support their cultural needs.

People with disability

Services and agencies should facilitate access to appropriate support workers and interpreters for people with disability. Disability may include physical, cognitive, sensory, psychiatric or neurological impairment, mental illness or a combination of these, which may result in a reduction in the person's capacity to make informed decisions or communicate.

Services should provide support to persons with impaired cognitive capacity to help them understand and participate in response processes following a sexual assault or sexual abuse.

With the person's informed consent, and when it is safe and appropriate to do so, services should also consult with relevant people involved in that person's life such as carers, advocates, support persons, guardians, attorneys and specialist agencies or departments.

People from culturally and linguistically diverse backgrounds

Service provision should be responsive to, and respectful of, the cultural and religious background and language needs of the person who has experienced sexual assault or sexual abuse. Where communication in English is difficult or where requested, professional and/or accredited interpreters and cultural support workers should be used to assist in both eliciting information from, and providing information to, the person who has experienced sexual assault or abuse. This supports victim-survivor safety and enables informed decision making about health care, investigative and legal processes for both the victim-survivor and the relevant agency.

Lesbian, gay, bisexual, transgender, intersex, queer or otherwise diverse in gender, sex or sexuality (LGBTIQ+) people

LGBTIQ+ people can experience marginalisation, stigma, discrimination, social exclusion, and prejudice which may make victim-survivors of sexual assault hesitant to seek help from police, hospitals, sexual assault services, or other supports. Service providers should equip themselves with the knowledge required to support all people, including LGBTIQ+ people, who have experienced sexual assault or child sexual abuse. Services and agencies may demonstrate the fact that they welcome diversity through, for example, displaying of rainbow signage. Stigma and discrimination should be reduced through the delivery of sensitive, discreet, and confidential care in settings that are familiar and friendly towards specific groups. Assessment processes should identify and support a person's gender identity as self-identified, including the use of preferred pronouns.

Older people

Older people can face barriers to reporting sexual assault or historical sexual abuse, including shame and guilt, and fear of not being believed. Agencies should have a referral mechanism to facilitate access to age-appropriate and safe services, particularly for those with cognitive impairment and where the ill-treatment is by a family member, or where they are dependent on the abuser for care.

Sex workers

Sex workers may face stigma, discrimination and not being taken seriously when reporting sexual assault to police. When reporting sexual assault, sex workers should be believed and treated with sensitivity and understanding in a safe and welcoming environment and reassured that what happened was not their fault.

Children and young people with a history of trauma

Children and young people with a history of trauma, such as child abuse, neglect or interactions with child protection are a particularly vulnerable cohort in need of targeted support when reporting sexual assault. Given many have had negative experiences with adult care givers, they may have an inherent distrust of the people and agencies designed to protect them, deterring them from reporting any sexual abuse they experience. Agencies should have referral mechanisms to child appropriate support services and adopt a trauma-informed approach to ensure children and young people with trauma histories feel safe and supported.

Communication

Responding to diverse needs means that agencies should be aware of, and take into consideration, factors which impact on communication with a person after a disclosure of sexual assault or sexual abuse. Factors may include: age; cultural and/or religious background; language; sexual orientation; gender identity or intersex status; abilities; cognitive impairment; community and social factors; and reluctance to disclose abuse or access formal responses because of past negative experiences with statutory systems and institutions.

Children and young people who have experienced sexual assault or sexual abuse benefit from the support of protective family members and carers in recovering from their experiences. Where

appropriate, Government agencies and non-government organisations should endeavour to communicate with the child or young person together with their supports.

This supports safety of the child or young person and enables informed decision making about health care, and investigative and legal processes for both the victim-survivor and the relevant agency.

Information provision

Police officers, doctors, nurses, social workers, health workers and legal officers should provide people with relevant, age appropriate and understandable information, which may include written material. This information should be offered in a way which is non-judgmental, appropriate, clear and sensitive to the victim-survivor in terms of language, cultural background, age, abilities, cognitive impairment, sexual orientation, gender identity and intersex status, and location.

People should be made aware of their rights as a victim-survivor of crime and be given an opportunity to discuss and consider the implications of proceeding with medical, investigative and legal processes so that they can make informed decisions. These decisions must be respected. It should be noted however that the decision whether or not an investigation should proceed rests primarily with police.

Translating and interpreter services

The Queensland Government recognises that a significant number of people may require professional interpreter services or an advocate or support person, as well as culturally appropriate support, in order to adequately disclose and report a sexual assault or sexual abuse and make informed decisions about the support and options available to them.

All reasonable steps will be taken by government agencies and funded non-government organisations providing sexual assault and sexual abuse responses to ensure fair and equitable access to professional and/or accredited interpreting and translating services that are appropriate and of high quality.

An accredited interpreter should be used in all situations where a professional interpreter and/or translator is required, unless there are extenuating circumstances that genuinely prevent an accredited interpreter from being used. This may include, for example, a medical emergency or where a language or cultural group is very small and confidentiality is a concern for the victim-survivor, or where no accredited interpreter is available for that language group. All agencies will take into consideration the wishes of the person who has been impacted by the sexual assault or sexual abuse in relation to the use of a professional interpreter.

Each government agency is required to observe its own policies and procedures in relation to the use of interpreters. These internal procedures should align with the Queensland Language Services Policy available at: <https://www.cyjma.qld.gov.au/multicultural-affairs/policy-governance/language-services-policy>.

Section 5: Localised interagency responses

As noted in the previous section, an effective, appropriate, trauma-informed response depends on partnership and coordination between different agencies. Localised responses are particularly important to facilitate liaison and coordination not only between government agencies but also with non-governmental sexual assault support service providers.

While there is a funded multi-agency Sexual Assault Response Team in Townsville (and a commitment to developing and implementing a similar model in other locations), local coordinated responses have been developed outside of that model. A locally-driven approach to service coordination improves outcomes for victim-survivors and provides a strong foundation for the establishment of formal models in particular locations.

Essential to an effective localised response is the maintenance of referral information on appropriate specialist support and other community services available, and the development of referral pathways and protocols between key service providers to ensure timely referral for those in need of support. Local procedures should ensure that services are accessible and coordinated, and written information and community education materials are appropriate to the local context.

Where they are active, and in line with privacy legislative frameworks, including the Queensland Domestic and Family Violence Information Sharing Guidelines, local sexual assault responses should work collaboratively with domestic and family violence High Risk Teams and/or other local DFV networks to ensure holistic support for potential overlapping client bases.

Considerations for establishing local level coordinated responses:

- Identify a multidisciplinary, multi-agency group of specialist professionals to work with victim-survivors after disclosure of sexual assault and/or sexual abuse to provide victim-centred and trauma-informed responses.
- Develop a Terms of Reference or a Memorandum of Understanding between the relevant organisations, relevant to the local context and guided by the principles outlined in the guidelines, covering issues such as:
 - goals and vision, including an agreed model of practice
 - participant organisations or agencies
 - key elements of coordinated practice to be addressed
 - governance and Communication
 - protocols and procedures, including referral pathways and protocols and procedures for information sharing
 - roles and responsibilities of members
 - working methods, including meeting schedule
 - monitoring and reporting
 - opportunities for shared awareness raising in the community about support and services available through participant organisations and agencies
 - joint educational activities appropriate to the local context.

Section 6: Interagency procedures

Irrespective of where sexual assault and/or sexual abuse is first reported, the top priority is to ensure the safety and welfare of the victim-survivor.

Acute intervention

Agencies should follow local procedures in the management of disclosures of sexual assault or sexual abuse. Where available, a designated sexual assault or sexual abuse responses or team (as described in Section 5) or a local specialist sexual assault service provider should be contacted and a referral for follow-up support and care should be made as soon as possible.

Where there are other identified needs for a child, young person and/or a family member, including emotional, social and psychological support needs, referrals can be made to support services suitable to these needs and circumstances.

It should be noted that while a referral can be made without consent under the CPA, consent should be obtained where possible, appropriate, and safe.

Agencies should take all reasonable steps to meet a victim-survivor's needs. This may include, for example, ensuring that male staff are not assigned to support a victim-survivor where that victim-survivor has indicated they would prefer to be treated by female staff.

At any stage throughout this process, a victim-survivor can have a support person present, where possible this should be a trained professional. The support person should not adversely influence the process and cannot be a potential witness in any court proceedings. Where a friend or family member is the support person, agencies should be alert to potential power dynamics between victim-survivors and the support person. Victim-survivors should choose, or consent to, their support person, rather than it being assumed that a particular person will fill the role.

Wherever possible agencies should ensure children and young people in out-of-home care have a trusted support person available throughout the response to the sexual assault or sexual abuse. Agencies are encouraged to contact DCSSDS for professional guidance where there are concerns or complex situations requiring practice support.

Any staff interacting with a person who has experienced sexual assault is encouraged to make a record of observations and conversations at the time of interaction or soon after, as this may assist in any future police investigation.

Presentation at a health facility by an adult

Health facilities, such as hospitals, are often the first place where a person will disclose a sexual assault. Police often present with a person reporting sexual assault. First responders should use trauma-informed practices and victim-centric approaches.

Nursing and medical staff will assess the general medical condition of the person and provide the appropriate treatment and care. Assessment of a person's need for medical treatment is always the first priority.

Where possible, people presenting at emergency departments with suspected or reported sexual assault or abuse will be prioritised for triage and examination away from public waiting areas.

Health responses to sexual assault and sexual abuse are governed by the Queensland Health directive "Caring for people disclosing sexual assault" (Directive number: QH-HSD-051:2019) and the Ministerial Direction "Crisis Care Process" (Direction number: QH-MD-001). The Crisis Care Process Direction lists the relevant HHSs and Emergency Departments that the Direction applies to.

The Crisis Care Process Direction requires that an HHS to which the Direction applies must accept care and commence an approved Clinical Care Pathway for any person who attends at an Emergency

Department and discloses having experienced sexual assault or is presented by an officer of the Queensland Police Service as a victim-survivor of a sexual assault, within 10 minutes of the disclosure or presentation.

If the HHS is unable to commence its Clinical Care Pathway within 10 minutes due to genuine operational or clinical needs, the Clinical Care Pathway shall be commenced at the earliest opportunity.

The HHS must take responsibility for the person's care from the time they present to the Emergency Department through their clinical care pathway, including performing a forensic medical examination if the person chooses to have this. If an exceptional circumstance arises where a hospital transfer is required, the Clinical Care Pathway must ensure that the person is supported in a trauma-informed way throughout the entire process.

The coordinated and immediate response includes, offering practical and emotional support, assessing the person's immediate physical and emotional safety and recognising the traumatic nature of the assault.

Medical assessment will be conducted in accordance with local clinical pathways. A medical examination should include sexual health intervention as per the QH sexual health guidelines available at: <https://www.health.qld.gov.au/clinical-practice/guidelines-procedures/sex-health/guidelines>.

Presentation at a health facility by a child or young person

Children or young people who may have experienced sexual abuse/assault could present for a health response when:

- a request for examination is made by QPS
- a child or young person presents to a health facility with a caregiver following a disclosure and/or injury, prior to a report being made to QPS
- a young person presents to a health facility without a caregiver
- behavioural or physical indicators have been identified by a caregiver, teacher or health professional (e.g. general practitioner) that warrant further assessment.

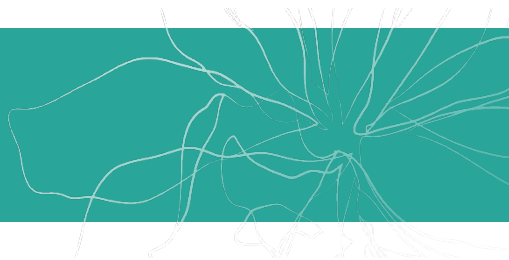
The Ministerial Directive – Crisis Care Process applies to all victim-survivors of sexual assault who present to a relevant HHS Emergency Department.

In addition, children under the age of 14 years who have experienced sexual abuse/assault are to be referred to a paediatrician for medical care. An on-call paediatrician should be available at the nearest hospital facility that admits paediatric patients, closest to the child's residence.

As noted above, for young people aged 14-16 years who present initially to a Paediatric facility, assessment will be made on a case-by-case basis as to the best facility to meet the young person's needs. This may mean that the young person is referred to service that provides care to persons aged 14 years and above for a holistic assessment, including medical examination.

When a medical assessment is conducted on a child or young person following a disclosure or allegation of sexual abuse/assault, the paediatrician and/or forensic physician/nurse should explain that any information or findings from the assessment may later be requested by QPS for forensic purposes in legal proceedings.

Clinicians should follow local clinical pathways for responding to children who may have experienced sexual abuse or sexual assault, including consideration of the risks of sexually transmitted infections and pregnancy.



Forensic Medical Examinations (FME)

Informed consent reflects a legal and moral principle whereby the victim-survivor has the right to decide what is appropriate for them. This includes the right to accept or to decline a FME and to change that decision.

In order for a victim-survivor to exercise this right, they require access to information that is relevant to them. An explanation about the nature of the FME must be given by the examiner and when involved, police also need to inform the victim-survivor about police investigation processes.

All patients presenting at a hospital and disclosing an alleged sexual assault will be offered psychosocial support in a private environment, where available, and be provided with information to help them decide whether to have a FME and/or involve police.

The FME consists of obtaining a specific and detailed history as to the nature of the assault/abuse in order to guide the subsequent physical examination. It also includes documentation of injuries and the collection of forensic evidence as it relates to the alleged sexual assault or sexual abuse. Prior to commencing the forensic medical examination, victim-survivors choosing to undergo a FME will need to provide explicit written consent.

Where a victim-survivor has already made the decision to report to police, the doctor or nurse conducting the FME should discuss the case with police before the FME takes place. This is to ensure that:

- all necessary evidence is collected
- a re-examination is avoided
- unusual evidence is not overlooked.

Where a victim-survivor has made the decision to report to police, a police officer must be present to receive all evidence collected immediately after the FME to maintain the chain of custody. The evidence collected via the FME will be released to police with the written consent of the victim-survivor or their decision maker.

The timely involvement and reporting of a sexual assault complaint to police increases prospects of a successful investigation and prosecution of alleged offenders, as it allows police to begin collecting any and all available evidence (not just that gathered during the FME) at the outset. Some victim-survivors of sexual assault may require time and space to properly consider whether they want to make a complaint to the police. These victim-survivors may choose to have a 'Collect and Store' FME to facilitate the collection and preservation of FME evidence that might then be relied upon in the event they decide to later make a police report. Informed consent in this instance includes explaining that not involving the police immediately may limit their ability to collect other types of evidence that could be useful in an investigation (for example, crime scene evidence).

Completed 'Collect and Store' kits will be securely held at the hospital's laboratory before being transferred to and stored at FSQ for a period of 24 months. Kits initially submitted for storage can be converted to the analysis process at any time within 24 months, upon victim-survivor request. The victim-survivor must make this request to QPS who will notify FSQ to commence analysis. 'Collect and Store' kits that are not converted will be destroyed upon direction from the victim-survivor, or at the 24-month mark.

Victim-survivors who do not wish to report their assault to police can be referred by QH staff to specialist sexual assault support services and advised of the Alternative Reporting Options (ARO) process which facilitates an anonymous report to police. ARO is outlined further below.

Access to health records, including counselling notes, are confidential. However, the victim-survivor should be notified that some records can be subject to a subpoena or other court-related mechanisms.

Further information is available at: <https://www.health.qld.gov.au/system-governance/policies-standards/health-service-directives/caring-for-people-disclosing-sexual-assault> and [Ministerial Direction - Crisis Care Process | Queensland Health](#).

Forensic medical examinations and informed consent for a child under 14 years of age

Where a child presents within 72 hours of an alleged sexual assault/abuse, a FME will be warranted (with limited exceptions). The clinician will complete the kit with adherence to forensic principles ensuring chain of evidence with the attending police officer.

Findings will be documented in the medical record, in line with QH clinical standards and requirements, for later forensic purposes.

Forensic medical examinations and informed consent for persons with impaired cognitive capacity

Under the *Guardianship and Administration Act 2000*, the decision to undergo a forensic examination is a personal matter, and legislation and policy around informed decision-making for personal matters applies.

If an adult is deemed by health staff not to have capacity to consent to a forensic examination, the Public Guardian may consent if it is reasonably considered to be in the adult's best interests *and* any of the following apply:

- i. there is no guardian or attorney appointed for the adult or available to consent for the adult to the examination; *or*
- ii. the guardian or attorney for the adult has failed to consent; *or*
- iii. the Public Guardian reasonably considers the adult's interests would not be adequately protected if the consent of any guardian or attorney for the adult were sought.

Who is skilled to perform a forensic medical examination?

FMEs for persons 14 years and older will usually be conducted at a public hospital by a suitably trained clinician such as a Forensic Nurse Examiner; Sexual Assault Nurse Examiner; Government Medical Officer; Forensic Physician; or other Medical Officer who has received training in forensic examinations. Where there is no trained clinician available, a Medical Officer (other than an intern) can complete the examination accessing phone support from Forensic Medicine Queensland.

A Forensic Physician from Forensic Medicine Queensland is available by telephone 24 hours a day, 7 days a week to provide support to clinicians performing an FME.

In the case of children under 14 years, a medical officer or nurse with appropriate paediatric skills including child protection and/or sexual assault medical examination training or skills is essential. A Forensic Paediatrician from the Child Protection and Forensic Medical Service is available by telephone 24 hours a day, 7 days a week to provide advice in paediatric matters.

Forensic Medical Examination process

Victim-survivor reference DNA samples

A reference DNA sample is typically the first sample collected during an FME, and it involves the collection of cells from the mouth/buccal area of the victim-survivor for the purpose of determining the donor's reference DNA profile. The use of the victim-survivor's reference DNA profile is limited purpose – that is, it can only be used for comparison and results interpretation within the investigation associated with the current FME and cannot be used for any other purpose (such as comparison in other cases or loading to the National Criminal Investigation DNA Database - NCIDD). Having a victim-survivor reference DNA profile available for comparison purposes can significantly assist forensic DNA analysis and outcomes and should be strongly encouraged in all presentations.

Elimination reference DNA samples

There are some circumstances in which it is beneficial to have limited-purpose reference DNA samples from close/intimate contacts of the victim-survivor to assist with optimal DNA results interpretation within a forensic case. For example, an elimination reference DNA sample from a sexual partner of a victim-survivor may be desirable if there has been unprotected sexual intercourse within the days preceding a sexual assault, as traces of spermatozoa may still be present for up to 5-7 days. DNA profiles obtained from vaginal/anal/mouth/buccal samples collected during the FME can then be compared against all reference DNA profiles from individuals associated with the case. This is done so that those individuals can be linked or excluded from the source of the DNA profiles from the other samples collected during the course of the investigation. The potential need for the collection of a reference DNA sample from a sexual partner should be raised with the victim-survivor and explained sensitively by the clinician during the FME. Should the need for (an) elimination reference sample(s) be identified, with the victim-survivor's consent, the clinician should consult with police to arrange for appropriate sample collection.

Timing and nature of the forensic medical examination

All victim-survivors presenting up to 7 days after an alleged assault should be assessed and a case history obtained to determine the timing and nature of the FME required. FME and sample collection should be performed as soon as possible with the victim-survivor's informed consent, as the quality and availability of the evidence deteriorates with time. For advice on sampling considerations and decisions specific to the features of the presentation, contact the Forensic Physician from Forensic Medicine Queensland.

FMEs can be distressing for the victim-survivor, as uncomfortable questions may need to be asked to uncover information that helps guide the subsequent forensic investigations, and at times the examination may need to be delayed or discontinued with consideration to the victim-survivor's physical and emotional state. Adhering to trauma-informed practice and respecting the victim-survivor's choice whether to continue with the examination is essential.

Drug-facilitated sexual assault

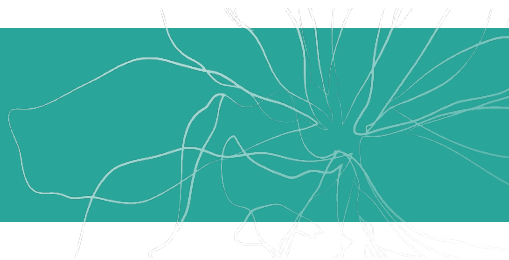
Where the administration of drugs in a sexual assault is suspected, testing should be conducted in a timely fashion. However, the decision to test remains a clinical one. Decision making around timing and sample matrix (blood, urine or hair) may be discussed with the on call Forensic Physician at Forensic Medicine Queensland.

Notifying the police

Where possible, the sexual assault/sexual abuse team worker or the health staff supporting the victim-survivor should discuss available reporting options with the victim-survivor. If the victim-survivor requests to speak to police, it is the role of the sexual assault/sexual abuse team worker or health staff to notify the police as soon as possible to ensure all evidence, including the crime scene, can be secured. Notification and initial reporting to police does not mean an investigation will automatically take place.

Where the victim-survivor is a child, reporting to the police is likely to be required. See 'Reporting concerns' below for more information about reporting requirements and the 'Failure to report' offence.

If the adult victim-survivor does not wish to make a formal complaint to police, they should be offered the option to complete the QPS Alternative Reporting Options (ARO) form, an online reporting process available at: <https://www.police.qld.gov.au/units/victims-of-crime/support-for-victims-of-crime/adult-sexual-assault/alternative-reporting>. A victim-survivor can also choose to undergo a Collect and Store FME at a public hospital if they have yet to decide to make a formal complaint.



Initial report to police

Police receiving a report of a sexual assault or sexual abuse will act on the information received. The police should inform the victim-survivor of relevant decisions made and obtain the victim-survivor's informed consent in line with legislation. In certain cases, police may choose not to seek the consent of a victim-survivor before pursuing an investigation or laying charges, for example, where the victim-survivor is a child or young person, or where police consider there is a serious risk to the life or wellbeing of a victim-survivor.

Police interviews with children and young people

The initial information obtained from a child is critical in the prosecution process and therefore, as best practice, only investigators who have completed Interviewing Children and Recording Evidence (ICARE) training should interview children to ensure admissibility of the statement.

Support person during the police interview

Police should inform victim-survivors that they may be accompanied by a support person while their statement is being taken. However, the victim-survivor must be advised that:

- the support person may not participate in the interview
- the support person may not directly or indirectly influence the interview
- a potential witness may not act as a support person.

Reporting concerns regarding children

Sexual offences against Children – Criminal Code

Children need the adults around them to take action to protect them from sexual abuse. Previously only certain adults had legal obligations to report suspected harm to children (including suspected sexual abuse). The law has been strengthened to increase protection of children from the risk of sexual abuse.

Legislation that commenced on 5 July 2021 increases protection of children from the risk of sexual abuse by requiring that:

- all adults report sexual offending by an adult against children to the police unless they have a reasonable excuse
- adults in an institutional setting (e.g. a school, church or sporting club) protect children from the risk of a sexual offence being committed against them.

These offences target behaviour that ignores or hides the sexual abuse of children.

For these laws, *child* means a person under 16 at the time of the offence or a person under 18 with an impairment of the mind.

Failure to report offence

QPS and DCSSDS act on reports of sexual offending against children.

Under section 229BC of the Criminal Code (*Failure to report belief of child sexual offence committed in relation to child*) if an adult (18 years and over) reasonably believes (or should reasonably believe) that a child is being or has been the victim of sexual abuse by another adult, they must report it to the police – unless they have a reasonable excuse. The offence does not require reporting of a suspicion that a child sexual offence may occur in the future.

A reasonable belief is a belief that a reasonable person would form in the same position and with the same information. Whether a reasonable belief would be formed will always depend on the circumstances. For example, a reasonable belief could be formed if:

- a child states that they have been sexually abused

- the child has signs of sexual abuse.

An adult with a reasonable belief that a child has experienced sexual abuse or is at risk of sexual abuse, must report it to the police—unless there is a reasonable excuse for not doing so.

A reasonable excuse includes if the adult:

- has already reported the offence to an appropriate authority (e.g. DCSSDS) or know another person has or will report it—for example, if they are
 - a nurse and have already reported it to DCSSDS
 - a teacher and the school principal or another teacher has already reported the offence according to other laws (such as mandatory reporting requirements)
- believes the information has already been given to a police officer
- received information about the victim-survivor who is now an adult and they reasonably believe the victim-survivor does not want to reveal it to the police
- believes reporting the offence would endanger them or another person (other than the alleged offender) and that failure to give the information to police is reasonable.

However, a 'reasonable excuse' is not defined exhaustively and may include other circumstances.

Failure to protect offence

The laws also impose a legal duty on certain adults to protect children from sexual offending. Adults in responsible positions in institutions will have an obligation to protect children in their care from known significant risks of sexual abuse.

Under section 229BB of the Criminal Code it is an offence to fail to protect a child from a sexual offence in an institutional setting.

This law imposes a legal duty on certain adults to protect children from sexual offending. Adults in responsible positions in institutions will have an obligation to protect children in their care from known significant risks of sexual abuse.

If there is a significant risk that another adult associated with an institution will sexually abuse a child, it is not enough to wait until sexual offending occurs to inform the police. This legal duty to protect focusses on preventing sexual abuse of children.

The intention behind this law is to ensure individuals in institutions take proactive action to reduce or remove known risks to children. The law attaches a criminal penalty to wilful or negligent failures to do so.

More information about both offences can be found at: <https://www.qld.gov.au/protectchildren>.

Harm to child – Child Protection Act 1999

If individuals have any reason to suspect a child in Queensland is experiencing harm, or is at risk of experiencing harm or being neglected, they should contact DCSSDS and talk to someone about their concerns:

- During normal business hours – contact the Regional Intake Service.
- After hours and on weekends – contact the Child Safety After Hours Service Centre on 1800 177 135 or (07) 3235 9999.

Notifiers will be asked to provide information to help work out the best way to respond to the situation. It is important for notifiers to report concerns and provide as much detail as possible. Notifier details are kept confidential and their identity is strictly protected.

All government agencies and non-government organisations responding to children and young people should have policies and procedures in place for reporting suspected child abuse and neglect.

The CPA requires certain professionals, referred to as 'mandatory reporters', to make a report to DCSSDS if they form a reasonable suspicion that a child has suffered, is suffering or is at an

unacceptable risk of suffering significant harm caused by physical or sexual abuse, and may not have a parent able and willing to protect them.

Mandatory reporters should also report to DCSSDS a reasonable suspicion that a child is in need of protection caused by any other form of abuse or neglect.

Under the CPA, mandatory reporters are:

- teachers (approved teachers under the *Education (Queensland College of Teachers) Act 2005*, employed at a school)
- medical officers, doctors and registered nurses (employed in the public or private health sectors)
- police officers with child protection responsibilities
- a person performing a child advocate function under the *Public Guardian Act 2014*
- early childhood education and care professionals
- DCSSDS employees and employees of licensed care services.

DCSSDS will provide notifiers from government agencies and non-government organisations with feedback about the response to the child protection concerns reported. The notifier will be asked whether they require feedback at the time of the initial contact with the department. If the notifier requests feedback, DCSSDS will:

- provide information about the departmental response, the rationale for the decision and the likely timeframes for any departmental contact with the child or family
- provide the feedback either at the time of the initial contact by the notifier, if the departmental response is apparent, or by a follow up phone call, facsimile, email or letter, once the information has been screened and the departmental response has been determined.

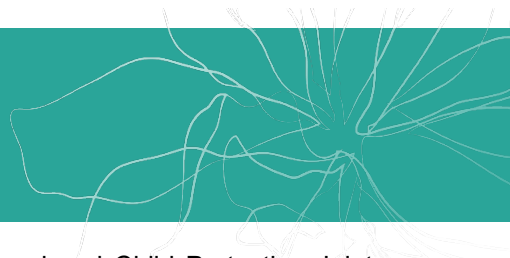
For Queensland Health staff, Child Protection Liaison Officers and Child Protection Advisors are available during business hours for consultation when QH staff are formulating a reasonable suspicion of child abuse and neglect. After-hours it is possible for QH staff to contact the after-hours nurse manager, refer to the online Child Protection Guide, or contact Child Safety After Hours Service to discuss the case further.

If protection concerns are about an Aboriginal or Torres Strait Islander child or young person, an independent Aboriginal or Torres Strait Islander entity (independent person) may be involved. An independent person is someone the child or young person and their family chooses to support them in their communication with DCSSDS and to meaningfully participate in significant decisions that may have an impact on the child or young person.

It is important to note that where a report has been made to DCSSDS under mandatory reporting obligations, there is no need to make a duplicate report to police under the Criminal Code obligations to report a reasonable belief of child sexual abuse as you will have a reasonable excuse for not reporting.

Queensland Police Service and Child Safety joint investigations

If it is suspected that a child may be the victim-survivor of intra-familial sexual abuse, or it is suspected that there is no parent willing and able to protect the child, police and DCSSDS may initiate a joint investigation to work collaboratively, exchange relevant information and determine the best way forward to respond to the child's protective needs. This assists both agencies to undertake their respective investigative responsibilities and reduces the number of times the victim-survivor needs to share their story.



The QPS Operational Procedures Manual, Child Safety Practice Manual and Child Protection Joint Response Teams Operational Guidelines support the use of joint investigations for matters which will benefit from a joint agency response.



Section 7: Other issues for consideration

Access to sexual assault counselling records

Division 2A of the EA provides protections for certain sexual assault counselling communications to significantly limit how and when they may be included in a court proceeding. Counselling Notes Protect is a free service provided by Legal Aid Queensland and Women's Legal Service to provide advice, assistance and representation to victim-survivors of sexual offences.

Care needs to be taken to ensure counselling communications embedded within Departmental and other records are correctly identified, and the victim-survivor provided with the opportunity to exercise the right to claim this privilege.

Discontinuance of police action before a proceeding has commenced

Where the victim-survivor does not wish to proceed with further police action, police should:

- advise the victim-survivor that the information they reported will remain on police records and the victim-survivor may re-commence their complaint at any time in the future
- inform the victim-survivor that police will not pursue their complaint towards a prosecution but may make further inquiries based on the information provided to ensure the safety of the victim-survivor or others
- note the reasons for withdrawing as they may impact on the decision to provide financial assistance through Victim Assist Queensland
- record the withdrawal of the complaint and attempt to obtain a signed withdrawal of complaint.

If a proceeding has commenced, the victim-survivor's wishes will be taken into account when deciding if the matter will continue.

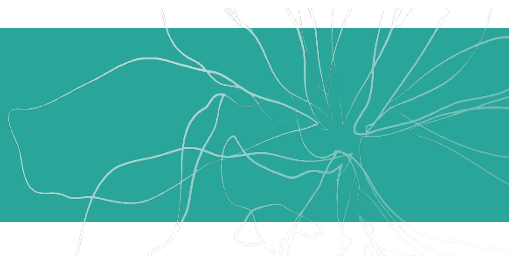
Follow up and registration on the Victims Register

After the trial and/or sentence, the victim-survivor will have the opportunity to talk to the case lawyer about the outcome of the case and the sentence imposed, if any. This opportunity may arise immediately after the trial and/or sentence concludes or at a later time by telephone.

If the offender is imprisoned, either in custody or in the community, the victim-survivor may be eligible to register their details on the Victims Register which is administered by Queensland Corrective Services. A victim-survivor and/or their family or nominee can register to be kept informed about the offender's imprisonment, movement between locations, parole eligibility dates and certain other information in accordance with legislation. In most circumstances, victim-survivors will also be given the opportunity to make submissions to the parole board when offenders apply for parole.

Where the offender is a young person, the Victim Information Register may be utilised. This register is administered by DYJ. A victim-survivor and/or their family or nominee can register to be kept informed about the young person's detention, movement between locations and supervised release dates.

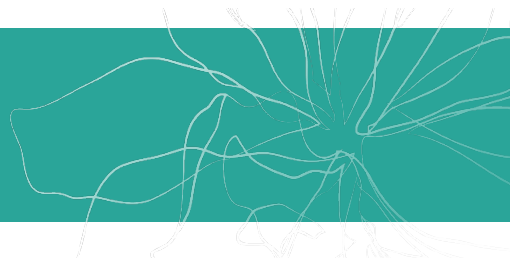
If the offender appeals against their conviction and/or sentence, or the Attorney-General appeals against the leniency of the sentence, the victim-survivor will be kept informed by the ODPP about the progress and outcome of the appeal and any consequential matters arising from the appeal.



Appendices

Appendix 1: Glossary

Affected child	A child who is a witness in a relevant proceeding and who is not a defendant in the proceeding.
Gillick competence	Term used in medical law to decide whether a child (under 16 years of age) is able to consent to his or her own medical treatment, without the need for parental permission or knowledge.
Medical examination	A physical, psychiatric, psychological, or dental examination, assessment or procedure and includes forensic examination and an examination or assessment carried out by a health practitioner.
Forensic Medical Examination Kit (FMEK)	Commonly known as a 'Rape Kit'. The FMEK replaces the previous Sexual Assault Investigation Kit and Just-in-Case kit. The FMEK is used by specially trained doctors or nurses to collect 'forensic' evidence after a sexual assault including swabs of various body parts, blood and urine pathology results and notes by the examining doctor.
Special witness	<ul style="list-style-type: none"> a) a child under 16 years; or b) a person who, in the court's opinion – <ul style="list-style-type: none"> i. would, as a result of a mental, intellectual or ii. physical impairment or a relevant matter, be likely iii. to be disadvantaged as a witness; or iv. would be likely to suffer severe emotional trauma; or v. would be likely to be so intimidated as to be disadvantaged as a witness; if required to give evidence in accordance with the usual rules and practice of the court; or c) a person who is to give evidence about the commission of a serious criminal offence committed by a criminal organisation or a participant in a criminal organisation; or d) a person – <ul style="list-style-type: none"> i. against whom domestic violence has been or is alleged to have been committed by another person; and ii. who is to give evidence about the commission of an offence by the other person.
Trauma-informed	Trauma-informed services acknowledge the prevalence and impact of trauma, recognise the signs and symptoms of trauma, alongside awareness and sensitivity to its dynamics in all aspects of service delivery. Trauma-informed services provide support services in a way that is accessible and appropriate to those who may have experienced trauma, utilise a framework to reduce the likelihood of re-traumatisation, and considers and modifies policies, procedures and treatment strategies in order to ensure they are not likely to mirror the common characteristics of traumatic experiences. A trauma-informed framework is underpinned by the following guiding principles in practice: safety, choice/control, collaboration, trustworthiness and transparency, and empowerment as well as respect for diversity. For example, creating a physically, emotionally and culturally safe environment; supporting victim's autonomy, choice and control; creating collaborative relationships with victims; building trust and ensuring transparency in communication and decision making; and using an empowerment-focused perspective to promote resilience and healing are ways in which these guiding principles can be demonstrated in practice.



Appendix 2: Guidelines history

2001	<i>Response to sexual assault: Queensland Government Interagency Guidelines for Responding to People who have Experienced Sexual Assault</i>
2014	<i>Response to sexual assault: Queensland Government Interagency Guidelines for Responding to People who have Experienced Sexual Assault (2nd Edition)</i>
2023	<i>Responding to sexual assault and sexual abuse: Queensland Government interagency guidelines for responding to children, young people and adults who have experienced sexual assault or child sexual abuse</i>



Appendix 3: Process for updating the Guidelines

Representatives from relevant government departments will review the guidelines, in consultation with the specialist sexual assault sector through the Queensland Sexual Assault Network, on a regular basis to determine if an update to the guidelines, or a full review, is required.

Should a decision be made by Government that a full review and update of the guidelines is required, this will be undertaken in collaboration with all relevant agencies and in consultation with specialist sexual assault service providers, through QSAN. Approval of the revised guidelines is required by all responsible Chief Executive Officers before they are released.

Should minor amendments to the guidelines be required to update details, for example:

- the name or responsibilities of agencies
- updates to legislation (either wholly or in part)
- updates to policies, practice guides or websites

these may occur with the approval of the relevant Chief Executive Officer(s). In these cases, a full review and approval by all relevant Chief Executive Officers is not required.

If a technical update to the guidelines is required, please contact Women's Safety and Violence Prevention, DJAG at pdirowvp@justice.qld.gov.au.